

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN SENATE MAY 20, 2008

AMENDED IN SENATE APRIL 29, 2008

AMENDED IN SENATE APRIL 22, 2008

AMENDED IN SENATE MARCH 25, 2008

**SENATE BILL**

**No. 1582**

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**Introduced by Senators Simitian and Maldonado**

February 22, 2008

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*An act to add Section 410.15 to the Code of Civil Procedure, to add Section 780 to the Penal Code, and to add and repeal Chapter 4.5 (commencing with Section 72435) of Division 38 of the Public Resources Code, relating to ocean resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1582, as amended, Simitian. Ocean resources: ocean rangers.

**Existing**

(1) *Existing* law prohibits a large passenger vessel from releasing specified waste streams into the marine waters of the state and requires the owner or operator of the vessel to maintain specified records. Existing federal law vests the jurisdiction over the admission of foreign aliens with the federal government.

This bill would, until January 1, 2015, require an owner or operator of a large passenger vessel, on and after ~~January~~ July 1, 2009, or a later specified date, to have onboard an ocean ranger, as defined, ~~while the vessel is operating in the marine waters of the state~~, to monitor the vessel's compliance with the above prohibition, to observe the maintenance and operational procedures for the onboard waste treatment

systems, and to assist in criminal investigations, subject to the availability of funding to place an ocean ranger onboard. The owner or operator would be required to provide specified records for inspection by the ocean ranger, upon request. The ocean ranger would be authorized to observe maintenance and operational procedures for onboard waste treatment systems, and would be authorized to, among other things, assist the passengers and crew in reporting and investigating alleged crimes onboard while in the marine waters of the state, and act as a liaison with the state and the federal Department of Homeland Security. The ocean ranger would have the responsibility of reporting incidences of alleged criminal activities to, and coordinating law enforcement activities with, the local or federal law enforcement agency with jurisdiction. The bill would require the Attorney General to negotiate, with specified jurisdictions, memoranda of understanding establishing terms and conditions of access to, and egress from, large passenger vessels for the ocean rangers from ports in those jurisdictions. ~~On and after a specified date, a large passenger vessel would be prohibited from disembarking passengers in the state if the vessel's last port of call is outside the marine waters of the state and the vessel operator denies to the ocean ranger or specified equivalent enforcement personnel access to the vessel at the foreign port. If an owner or operator of a large passenger vessel denies access to a large passenger vessel by an ocean ranger authorized to be onboard, the bill would subject the owner or operator to trebled damages for any violation of the state's water quality laws occurring during the period that access to the vessel has been denied. The bill would, subject to the limitations of applicable federal law, provide to a citizen or resident of the state who is a victim of a serious crime occurring onboard a large passenger vessel and who has embarked or disembarked in a California port a cause of action for treble damages.~~

The bill would require the Department of Justice, beginning March 1, 2009, and biennially thereafter, to publish on its Internet Web site a statistical analysis of crimes committed, investigated, and resolved onboard a large passenger vessel making port in California. The department would be required to assess on the owner or operator of a vessel a fee of \$1.50 per passenger who embarks on a cruise, or who ends a cruise and disembarks, at a port of call in California. The Department of Justice, would be required, beginning January 1, 2011, to revise annually the fee pursuant to a specified procedure to ensure that the fee generates sufficient revenues only to cover the costs of

implementing this act, plus a prudent reserve. *The bill would require the Department of Finance to complete a commercial impact report for any passenger fee increase that is greater than the cost-of-living adjustment as determined by the United States Bureau of Labor Statistics annual index and to make a necessity determination on the amount of increase beyond the cost-of-living adjustment.* The bill would require the State Board of Equalization to collect and deposit the fee into the Ocean Ranger Program Fund, which the bill would establish in the State Treasury, and, upon appropriation by the Legislature, the collected fee would be used for specified purposes.

*If an owner or operator of a large passenger vessel denies access to a large passenger vessel by an ocean ranger authorized to be onboard, the bill would subject the owner or operator to a civil fine of \$25,000 per violation in an action brought by the Attorney General to enforce this act. The fine collected would be deposited into the Penalty Account, which is hereby created in the Ocean Ranger Program Fund, and, upon appropriation by the Legislature, would be disbursed to the Ports of San Francisco, Long Beach, Los Angeles, San Diego, and Catalina Island to mitigate any impacts caused by the large passenger vessels on the port facilities.*

The department would be required, in cooperation with the Commission on Peace Officer Standards and Training, to develop an appropriate course of training for ocean rangers. The department would be required to develop and periodically update specified training for, and to contract with a qualified entity to provide training for, an ocean ranger who would conduct environmental compliance activities. The department would be required to contract with an entity to provide personnel qualified as ocean rangers to conduct environmental compliance activities.

The bill would provide that the department would implement this act in conformity with the requirements of international and federal law.

~~This bill would provide that the above requirements would be repealed by its own terms on January 1, 2015.~~

*(2) Existing law authorizes the courts of the state to exercise jurisdiction consistent with the Constitution of the state and of the United States.*

*This bill would specifically provide that the courts of the state may exercise jurisdiction over acts or omissions occurring onboard large passenger vessels, as defined, under specified circumstances.*

(3) Existing state law generally regulates large passenger vessels while they operate in the marine waters of California.

This bill would create a special maritime criminal jurisdiction of California that extends to acts or omissions onboard a ship outside of California under specified circumstances. The bill would provide that an act or omission against the person or property of another that is punishable by law when committed within California shall be punishable in the same manner when committed within the special maritime criminal jurisdiction of this state, as specified. The bill would require the Attorney General to take all measures necessary to ensure that California law enforcement officers and prosecutors respect certain principles in applying the provisions of the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) *The cruise industry provides significant economic benefits*  
4 *to California's cruise ports and their communities. In 2008,*  
5 *California cruise ports will welcome 628 cruise ship visits carrying*  
6 *nearly 2.2 million passengers. According to California cruise*  
7 *ports, economic benefit from passengers in California is estimated*  
8 *to be four hundred fifty million dollars (\$450,000,000) in 2008*  
9 *with continued growth anticipated annually. California cruise*  
10 *ports are committed to enhancing the experience of each and every*  
11 *passenger and to ensuring that such passengers continue to return*  
12 *to California cruise ports year after year.*  
13 ~~(a)~~  
14 (b) More cruise ships are calling upon California ports of call  
15 every year. The cruise ship fleet is increasing in size and carrying  
16 capacity and producing increasing volumes of solid and liquid  
17 waste.  
18 ~~(b)~~  
19 (c) Improperly treated wastes released into the environment can  
20 significantly impact California's aquatic ecosystems and the people  
21 and industries that depend upon them.  
22 ~~(c)~~

1 (d) The cruise ship industry has a poor record on self-policing  
2 environmental practices.

3 ~~(d)~~

4 (e) California's zero-discharge law for cruise ships does not  
5 provide independent oversight of the industry or verification of  
6 the zero-discharge requirement.

7 ~~(e)~~

8 (f) Millions of American citizens travel on cruise ships every  
9 year and numerous documented cases exist of serious crimes  
10 against passengers by other passengers and crew members.

11 ~~(f) The cruise ship industry has failed to adopt adequate~~  
12 ~~measures to protect passengers from theft, rape, assaults, and~~  
13 ~~suspected homicides, or to provide the necessary assistance to~~  
14 ~~United States public safety officers investigating these crimes.~~

15 (g) *The physical safety of the passengers and crew should be*  
16 *the highest priority of the cruise line industry. The industry,*  
17 *through its trade organization has appeared before the United*  
18 *States Congress and the Legislature and asserted that there is no*  
19 *crime problem onboard large passenger vessels. The industry*  
20 *testified that the Federal Bureau of Investigation supports the*  
21 *industry claim that the incidence of violent crime onboard large*  
22 *passenger vessels is .01 percent. The Federal Bureau of*  
23 *Investigation directly refutes this number and clarifies that .01*  
24 *percent is what is reported to them by the cruise line industry.*

25 (h) *Independent crime statistics presented before the United*  
26 *States Congress show that one has a 50 percent greater chance*  
27 *of sexual assault on a large passenger vessel as compared to the*  
28 *United States generally. The rate of sexual assault in the United*  
29 *States is 32 per 100,000 population. The rate of sexual assault on*  
30 *large passenger vessels was 48 per 100,000 in 2007. That rate*  
31 *was 17.6 per 100,000 from 2003 to 2005, inclusive. This is more*  
32 *than a 170 percent increase in the sexual assault rate on large*  
33 *passenger vessels between 2005 and 2007.*

34 SEC. 2. Section 410.15 is added to the Code of Civil Procedure,  
35 to read:

36 410.15. (a) *A court of this state may exercise jurisdiction over*  
37 *an act or omission occurring outside the state onboard a large*  
38 *passenger vessel under any of the following circumstances:*

39 (1) *The act or omission has a significant impact on California.*

1     (2) *The owner or operator of a large passenger vessel has*  
2 *substantial contacts with the state, including, but not limited to,*  
3 *any of the following:*

4     (A) *Having offices in the state.*

5     (B) *Advertising for passengers, or employees, or both passengers*  
6 *and employees.*

7     (C) *Embarking or disembarking passengers in the state.*

8     (D) *Disposing of solid and liquid waste in the state, generated*  
9 *outside of the state.*

10    (3) *There are victims of crime or witnesses to criminal or civil*  
11 *violations on the large passenger vessel who are residents or*  
12 *citizens of the state or a state that consents to the jurisdiction of*  
13 *this state.*

14    (4) *The state in whose territory the act or omission occurred*  
15 *requests the exercise of jurisdiction by this state.*

16    (5) *The act or omission occurred during a voyage on which*  
17 *over half of the feepaying passengers onboard the large passenger*  
18 *vessel originally embarked and finally disembarked in this state,*  
19 *without regard to intermediate stopovers.*

20    (b) *For the purposes of this section, “large passenger vessel”*  
21 *has the same meaning as that set forth in Section 72410 of the*  
22 *Public Resources Code.*

23    (c) *This section does not limit or enlarge the jurisdiction*  
24 *provided pursuant to Section 410.10.*

25    SEC. 3. *Section 780 is added to the Penal Code, to read:*

26    780. (a) *The Legislature finds and declares all of the following:*

27    (1) *California is a major center for international travel and*  
28 *trade by sea.*

29    (2) *California has an interest in ensuring the protection of*  
30 *persons traveling to or from California by sea.*

31    (3) *California has an interest in cooperating with the masters*  
32 *of ships and the governments of the United States and other states*  
33 *in the maintenance of law and order onboard ships.*

34    (4) *The interests of California do not, in principle, require a*  
35 *general assertion of primary jurisdiction over acts or omissions*  
36 *at sea that would duplicate or conflict with the execution of any*  
37 *law enforcement responsibility of any other jurisdiction.*

38    (5) *California should establish special maritime criminal*  
39 *jurisdiction extending to acts or omissions onboard ships outside*  
40 *of the state under the circumstances described in this section.*

1     (b) As used in this section, the following definitions apply:

2     (1) “Flag state” means the state under whose laws a ship is  
3 registered.

4     (2) “Ship” means any watercraft or other conveyance used,  
5 capable of being used, or intended to be used as a means of  
6 transportation on water.

7     (3) “State” means any foreign state, the United States or any  
8 state, territory, possession, or commonwealth thereof, or the  
9 District of Columbia.

10    (c) The special maritime criminal jurisdiction of California  
11 extends to acts or omissions onboard a ship outside of California  
12 under any of the following circumstances:

13    (1) There is a suspect onboard the ship who is a resident of  
14 California or of a state that consents to the jurisdiction of  
15 California.

16    (2) The master of the ship or an official of the flag state commits  
17 a suspect onboard the ship to the custody of a law enforcement  
18 officer acting under the authority of California.

19    (3) The state in whose territory the act or omission occurred  
20 requests the exercise of jurisdiction by California.

21    (4) The act or omission occurs during a voyage where over half  
22 of the revenue passengers onboard the ship originally embarked  
23 and plan to finally disembark in California, without regard to  
24 intermediate stopovers.

25    (5) The victim is a California law enforcement officer onboard  
26 the ship performing his or her official duties.

27    (6) The act or omission constitutes an attempt or conspiracy to  
28 cause a substantial effect in California that is an element of the  
29 offense charged.

30    (7) The act or omission is one over which a state may exercise  
31 criminal jurisdiction under international law or treaty.

32    (d) An act or omission against the person or property of another  
33 that is punishable by law when committed within California shall  
34 be punishable in the same manner when committed within the  
35 special maritime criminal jurisdiction of California, provided that  
36 the criminal laws of the United States prohibit substantially the  
37 same act or omission onboard ships of the United States registry  
38 outside of the territory of the United States. Except for the  
39 circumstances that are within the purview of paragraph (6) or (7)  
40 of subdivision (c), it shall be an affirmative defense that the act or

1 omission was authorized by the master of the ship or an officer of  
2 the flag state in accordance with the laws of the flag state and  
3 international law. No person shall be tried under this section if  
4 that person has been tried by another state for substantially the  
5 same act or omission.

6 (e) The Attorney General shall take all measures necessary to  
7 ensure that California law enforcement officers and prosecutors  
8 conform their actions to the following principles in applying the  
9 provisions of this section:

10 (1) This section is not intended to assert priority over or  
11 otherwise interfere with the exercise of criminal jurisdiction by  
12 the United States, the flag state, or the state in whose territory an  
13 act or omission occurs.

14 (2) This section shall be administered in a manner consistent  
15 with international law, with the primary responsibility of the flag  
16 state for the maintenance of order onboard ship, and with the  
17 responsibilities of the federal government under the Constitution,  
18 treaties, and laws of the United States.

19 (3) This section shall be applied with the cooperation of the  
20 flag state and the master of the ship where feasible.

21 (f) This section does not do any of the following:

22 (1) Authorize the boarding, search, or detention of a ship or of  
23 persons or property onboard a ship without the consent of the flag  
24 state or the master of the ship, if the ship is located outside of  
25 California or if the necessary law enforcement activities are  
26 otherwise beyond the jurisdiction of California or the United States.

27 (2) Restrict the application or enforcement of other laws of  
28 California or of the duty of law enforcement officers to protect  
29 human life, property, or the marine environment from imminent  
30 harm.

31 (3) Constitute an assertion of jurisdiction over acts or omissions  
32 of military or law enforcement officers authorized by a state in  
33 accordance with international laws.

34 (4) Prohibit the operation of gaming, games of chance, or other  
35 gaming activities otherwise allowable outside the territorial waters  
36 of the State of California.

37 ~~SEC. 2.~~

38 SEC. 4. Chapter 4.5 (commencing with Section 72435) is added  
39 to Division 38 of the Public Resources Code, to read:



CHAPTER 4.5. OCEAN RANGERS

72435. (a) Unless the content otherwise requires, the definitions set forth in this section govern this chapter.

(b) “Department” means the Department of Justice.

(c) “Environmental marine ranger” means a person who is a United States Coast Guard licensed merchant marine officer with at least 720 days of shipboard employment within the past five years in the capacity of a second assistant engineer (any horsepower) or a second mate (unlimited), or a higher shipboard position, with a valid certificate issued pursuant to the Standards of Training and Certification and Watchkeeping (STCW) for Seafarers, 1978, as amended.

(d) “Fund” means the Ocean Ranger Program Fund established pursuant to Section 72435.7.

(e) “Ocean ranger” means either of the following:

(1) An investigator specified in subdivision (b) of Section 830.1 of the Penal Code or a peace officer of a public law enforcement agency in the state if the department entered into a contract with the public law enforcement agency for the provision of this personnel.

(2) An environmental marine ranger provided by an entity pursuant to a contract with the department under Section 72435.2.

(f) “*Passenger*” means a person who, for a fee, hires a large passenger vessel for transportation.

72435.1. (a) (1) The department shall, in cooperation with the Commission on Peace Officer Standards and Training, develop and periodically update an appropriate training course for the ocean ranger specified in paragraph (1) of subdivision (e) of Section 72435.

(2) An investigator serving as an ocean ranger pursuant to paragraph (1) of subdivision (e) of Section 72435 shall complete the course developed pursuant to paragraph (1) before being assigned to a large passenger vessel.

(b) (1) For the training of the ocean ranger specified in paragraph (2) of subdivision (e) of Section 72435 for work on a large passenger vessel pursuant to this chapter, the department shall contract with a training facility that provides a course established subsequent to 2006 and updated annually. The training course shall include, at a minimum, all of the following:

1 (A) Applicable international, federal, state, and local  
2 environmental laws and regulations.

3 (B) Records and sampling of all regulated waste streams and  
4 discharges.

5 (C) Reporting requirements.

6 (D) Spill and environmental response plans.

7 (E) Prohibited activities.

8 (F) Shipboard security plans.

9 (G) Any other subjects that the department deems appropriate.

10 (2) A person serving as an ocean ranger pursuant to paragraph  
11 (2) of subdivision (e) of Section 72435 shall complete the training  
12 course specified in paragraph (1) before being assigned to a large  
13 passenger vessel.

14 72435.2. (a) The department shall contract with an entity to  
15 provide for qualified environmental marine rangers to serve as  
16 ocean rangers.

17 (b) (1) A contract entered into pursuant to subdivision (a) shall  
18 require the contracting entity to reimburse to the operator of a  
19 vessel for providing room and board to an ocean ranger assigned  
20 to the vessel pursuant to this chapter.

21 (2) Calculations for the ocean ranger's room and board shall be  
22 based on providing a single, inside room on the vessel in the lowest  
23 price category.

24 72435.3. (a) (1) The Attorney General shall negotiate a  
25 memorandum of understanding with appropriate state, national,  
26 provincial authorities from Alaska, Washington, Hawaii, and, as  
27 applicable under international and federal law, Canada and Baja  
28 California. The memorandum of understanding shall establish  
29 terms and conditions of access to, and egress from, large passenger  
30 vessels for the ocean ranger from ports in those jurisdictions  
31 pursuant to this chapter or for equivalent law enforcement and  
32 environmental enforcement personnel from those foreign  
33 jurisdictions. The memorandum of understanding shall require the  
34 ocean ranger or the specified equivalent law and marine  
35 enforcement personnel to board the large passenger vessel at the  
36 last port of call made by the vessel before the vessel enters into  
37 the marine waters of the state.

38 (2) In implementing this chapter, the Attorney General shall, to  
39 the greatest extent feasible, pursue the goal of having the ocean  
40 rangers specified in paragraph (1) of subdivision (e) of Section

1 72435 be cross-deputized with the United States Coast Guard, the  
2 Federal Bureau of Investigation, and other state, federal, and  
3 international law enforcement agencies.

4 (b) (1) Not later than January 1, 2010, the Attorney General  
5 shall place an ocean ranger ~~on board~~ *onboard* large passenger  
6 vessels as soon as practicable considering the requirements of this  
7 chapter.

8 (2) An ocean ranger shall be onboard a large passenger vessel  
9 if the Attorney General has a memorandum of understanding with  
10 the jurisdiction of the last port of call or the next port of call of  
11 that vessel, and sufficient funds are available to place an ocean  
12 ranger onboard.

13 (3) If there is no memorandum of understanding with the  
14 applicable jurisdiction on or before January 1, 2010, an ocean  
15 ranger shall be on the vessel three months after a memorandum of  
16 understanding has been entered into between the Attorney General  
17 and the applicable jurisdiction, and sufficient funds are available  
18 to place an ocean ranger onboard.

19 ~~(e) On and after the applicable date specified in subdivision (b);~~  
20 ~~a large passenger vessel making a port of call in the state shall not~~  
21 ~~disembark any passengers at a California port if the last port of~~  
22 ~~call is in Hawaii, Alaska, Washington, Canada, or Baja California~~  
23 ~~and an ocean ranger or equivalent enforcement personnel specified~~  
24 ~~in subdivision (a), authorized by the memorandum of understanding~~  
25 ~~entered into pursuant to subdivision (a), has been denied access at~~  
26 ~~the last port of call to the vessel by the vessel operator, unless the~~  
27 ~~Attorney General determines that there are insufficient funds to~~  
28 ~~place an ocean ranger onboard all large passenger vessels.~~

29 (4) *All ocean rangers hired or contracted for by the Attorney*  
30 *General and all program costs resulting from the implementation*  
31 *of this chapter shall be funded through fees raised pursuant to this*  
32 *chapter and shall not be taken from existing funds utilized by police*  
33 *agencies, nor shall existing law enforcement personnel be diverted*  
34 *for the implementation of this chapter absent additional funding*  
35 *to pay the costs of the diversion.*

36 (c) (1) *If the owner or operator of a large passenger vessel*  
37 *denies access to an ocean ranger authorized to be onboard*  
38 *pursuant to this chapter, the owner or operator shall be liable for*  
39 *a civil fine of twenty-five thousand dollars (\$25,000) for each*

1 violation in an action brought by the Attorney General to enforce  
2 this chapter.

3 (2) The civil fines collected pursuant to this subdivision by the  
4 Attorney General shall be deposited into the Penalty Account,  
5 which is hereby created in the fund, and, upon appropriation by  
6 the Legislature, distributed to the Ports of San Francisco, Long  
7 Beach, Los Angeles, San Diego, and Catalina Island, to be utilized  
8 to mitigate costs resulting from impacts of large passenger vessels  
9 on the port facilities.

10 (d) If the owner or operator of a large passenger vessel denies  
11 access to an ocean ranger authorized to be onboard pursuant to  
12 this chapter, the owner or operator shall be liable for treble  
13 damages for any violation of applicable state water quality laws  
14 occurring during the period that access to the vessel has been  
15 denied.

16 (e) Subject to the limitations of all applicable federal laws, if  
17 the owner or operator of a large passenger vessel denies access  
18 to an ocean ranger authorized to be onboard a large passenger  
19 vessel pursuant to this chapter, a citizen or resident of California,  
20 who is a victim of a serious crime occurring onboard the large  
21 passenger vessel and has embarked or disembarked in a California  
22 port, shall have a civil cause of action in the venue where the  
23 passenger embarked or disembarked in California and the remedy  
24 for any damages shall be trebled.

25 (d) For a large passenger vessel embarking for an international  
26 destination from a port in the state, and not returning to the state  
27 within seven days, or making a port of call in Hawaii or Alaska,  
28 arrangements shall be made between the vessel operator and the  
29 department for the ocean ranger to disembark the ship or to remain  
30 in the first port of call outside the state. If a memorandum of  
31 understanding is not entered into with the appropriate governmental  
32 authorities in Baja California for a vessel bound for Mexico,  
33 arrangements shall be made between the Attorney General and the  
34 vessel operator for the ocean ranger to disembark the ship.

35 (e) The department shall have sole responsibility for notifying  
36 the large passenger vessel operators and the local government  
37 entities that regulate California ports of a large passenger vessel  
38 owner or operator's compliance or noncompliance with this chapter  
39 and the status of the memoranda of understanding required by this  
40 section.

1     72435.4. (a) (1) ~~For a large passenger vessel operating in the~~  
2 ~~marine waters of the state, an~~ An ocean ranger specified in  
3 paragraph (1) of subdivision (e) of Section 72435 onboard the  
4 vessel may do both of the following:

5     (A) Assist the passengers and crew, as needed, with reporting  
6 alleged crimes occurring onboard and advising, where requested,  
7 on the proper law enforcement procedures regarding the gathering  
8 of evidence from alleged crime scenes ~~and ensuring the process~~  
9 concerning witness identification and interviews is initiated.

10    (B) Act as a liaison with the state and the federal Department  
11 of Homeland Security, as necessary or as requested by those two  
12 entities.

13    (2) When a large passenger vessel enters a port in California,  
14 the ocean ranger specified in paragraph (1) of subdivision (e) of  
15 Section 72435 shall report incidences of alleged criminal activities  
16 occurring onboard to, and coordinate law enforcement activities  
17 with, the local or federal law enforcement agency with jurisdiction.  
18 Except as provided by any other provision of law, a port district  
19 with jurisdiction over the port is not responsible for the reporting  
20 of incidences of alleged criminal activities to, and coordination of  
21 law enforcement activities with, the local or federal law  
22 enforcement agency.

23    (3) On and after March 1, 2009, the department shall publish  
24 on its Internet Web site a statistical analysis, broken down by large  
25 passenger vessel operator and by large passenger vessel, of crimes  
26 committed, investigated, and resolved onboard each vessel making  
27 port in California. The report shall be updated, at a minimum,  
28 biennially.

29    (b) ~~For a large passenger vessel operating in the marine waters~~  
30 ~~of the state, an~~ An ocean ranger specified in paragraph (2) of  
31 subdivision (e) of Section 72435 onboard the vessel may do both  
32 of the following:

33    (1) Monitor a large passenger vessel's compliance with the  
34 requirements of Chapter 3 (commencing with Section 72420) if  
35 the applicable federal agencies approve an application made  
36 pursuant to subdivision (a) of Section 72440 ~~while the vessel is~~  
37 ~~operating in the marine waters of the state.~~

38    (2) Observe maintenance and operational procedures for onboard  
39 vessel treatment systems.

1 72435.5. (a) The owner or operator of a large passenger vessel  
2 shall make available, upon request, an applicable record on the  
3 vessel's compliance with the requirements of Chapter 3  
4 (commencing with Section 72420) for inspection by an ocean  
5 ranger.

6 (b) To the extent allowable under international and federal laws,  
7 the owner or operator of a large passenger vessel shall provide to  
8 an ocean ranger access to the vessel's security plan.

9 72435.6. (a) (1) Beginning ~~January 1, July 1, 2009~~, the  
10 department shall assess on an owner or operator of a large  
11 passenger vessel a fee of one dollar and fifty cents (\$1.50) per  
12 passenger who embarks on a cruise from a port of call in California  
13 and one dollar and fifty cents (\$1.50) per passenger who ends a  
14 cruise and disembarks at a port of call in California.

15 (2) The fee specified in paragraph (1) shall not be assessed for  
16 a passenger who does not begin or end a cruise at a port of call in  
17 California.

18 (3) *At the bottom of a ticket sold to a customer embarking,*  
19 *disembarking, or both at a port in California, there shall appear*  
20 *the following language:*

21  
22 *"This fee is assessed on each passenger to place a licensed*  
23 *California peace officer and a certified marine engineer onboard*  
24 *this vessel to enhance passenger safety and increase environmental*  
25 *protections."*

26  
27 (b) The fee specified in subdivision (a) shall be revised on or  
28 before January 1, 2011, and annually thereafter, pursuant to  
29 subdivision (c) to ensure that the fees collected are sufficient only  
30 to generate revenue to cover the costs of implementing this chapter,  
31 plus a prudent reserve.

32 (c) The fee specified in subdivision (a) shall be revised as  
33 follows:

34 (1) On or before March 1, 2010, and on or before March 1  
35 annually thereafter, the department shall submit to the Department  
36 of Finance an annual work plan. In determining the annual costs  
37 of implementing the work plan, no more than 3 percent of the  
38 annual cost shall include the department's costs for overhead and  
39 administration.

(2) On or before July 1, 2010, and on or before July 1 annually thereafter, the Department of Finance shall certify that the proposed work plan is feasible and that the department's estimated costs for implementing the work plan are within 25 percent of the estimate determined by the Department of Finance to implement the annual work plan. The Department of Finance shall establish the necessary passenger fee, based on the department's estimated costs, which shall take effect beginning January 1, 2011. The Department of Finance shall revise annually the passenger fee, pursuant to this paragraph, which shall take effect on January 1 of each year thereafter. On or before October 1, 2010, and annually thereafter, the Department of Finance shall report the new fee that would be effective beginning January 1, 2011, and annually thereafter.

(3) If the Department of Finance does not certify the department's proposed work plan and the cost estimate pursuant to paragraph (2), the department and the Department of Finance shall meet and confer, and produce a final work plan and cost estimate on or before September 1 after the date that the decision not to certify the work plan and cost estimate was made.

(4) If, after the meet and confer conducted pursuant to paragraph (3), the department and the Director of Finance fail to agree on the work plan and cost estimate, this issue shall be brought before the Governor for resolution.

(d) If the revised fee has not been settled in a timely manner pursuant to subdivision (c), the existing fee shall remain in place until a revised fee is established.

(e) (1) Prior to January 1, 2011, the department shall hire or contract for only the number of ocean rangers that can be fully funded with the fees collected pursuant to this section.

(2) The department shall have the discretion to determine the best method for a phased implementation of the placement of ocean rangers onboard a large passenger vessel pursuant to this chapter.

*(f) If the proposed increase in the passenger fee is greater than the cost-of-living adjustment as determined by the United States Bureau of Labor Statistics annual index, the Department of Finance shall complete a commercial impact report analyzing how the proposed increase would affect the commercial position of California cruise ports and the net benefits to their passengers, and shall make a determination on the necessity of the increase beyond the cost-of-living adjustment.*

1     72435.7. (a) Revenue generated from the fees collected  
2 pursuant to this section shall be deposited into the Ocean Ranger  
3 Program Fund, which is hereby created in the State Treasury. Upon  
4 appropriation by the Legislature, the Controller shall disburse  
5 money in the fund for all of the following purposes:

6     (1) To pay refunds to an owner or operator of a large passenger  
7 vessel for the collection of excessive fees.

8     (2) To reimburse the department for the training of ocean rangers  
9 and the implementation of this chapter.

10    (3) To reimburse the Controller for the costs incurred in  
11 implementing this chapter.

12    (4) To reimburse the Department of Finance for the costs  
13 incurred in implementing this chapter.

14    (5) To reimburse the State Board of Equalization for costs  
15 incurred during the 2008–09 fiscal year in implementing this  
16 chapter that were not recovered pursuant to subdivision (c).

17    (b) The State Board of Equalization shall administer and collect  
18 the fee specified in Section 72435.6 in accordance with the Fee  
19 Collection Procedure Law (Part 30 (commencing with Section  
20 55001) of Division 2 of the Revenue and Taxation Code).

21    (c) The fee imposed pursuant to subdivision (b) of Section  
22 72435.6 shall be due and payable to the State Board of Equalization  
23 on or before the last day of each quarter in which a large passenger  
24 vessel was docked in the state. The payments shall be accompanied  
25 by a return in a form as prescribed by the State Board of  
26 Equalization, including, but not limited to, electronic media.  
27 Returns shall be authenticated in a form or pursuant to methods  
28 as may be prescribed by the State Board of Equalization.

29    (d) After deducting the administrative costs incurred in the  
30 collection of the fee, the State Board of Equalization shall deposit  
31 the remaining amount into the fund.

32    (e) (1) Before January 1, 2010, upon appropriation by the  
33 Legislature, the Controller shall disburse the money in the fund to  
34 the department on a monthly basis to ensure that no more than 30  
35 days' expenses for the implementation of this chapter are charged  
36 to the General Fund.

37    (2) On and after January 1, 2010, upon appropriation by the  
38 Legislature, the Controller shall disburse the money in the fund to  
39 the department, on a quarterly basis, to reimburse the department  
40 for the costs of implementing this chapter.



1     72435.8. On or before January 1, 2014, the department shall  
2 submit to the Legislature a report that includes, but is not limited  
3 to, all of the following information:

- 4     (a) A yearly breakdown of costs of the program.
- 5     (b) The total fees generated.
- 6     (c) The number of ocean rangers hired.
- 7     (d) The ongoing staffing requirements of the program.
- 8     (e) The number of environmental violations reported pursuant  
9 to this chapter.
- 10    (f) The number of criminal allegations in which an ocean ranger  
11 had been involved.
- 12    (g) The number of complaints filed by passengers and crew  
13 against the ocean rangers.

14     72435.9. The department shall implement this chapter in  
15 conformity with all applicable requirements of international and  
16 federal law.

17     72435.10. The provisions of this chapter are severable. If any  
18 provision of this chapter or its application is held invalid, that  
19 invalidity shall not affect other provisions or applications that can  
20 be given effect without the invalid provision or application.

21     72435.11. This chapter shall remain in effect only until January  
22 1, 2015, and as of that date is repealed, unless a later enacted  
23 statute, that is enacted before January 1, 2015, deletes or extends  
24 that date.